

TENTATIVE AGENDA
STATE WATER CONTROL BOARD MEETING
THURSDAY, APRIL 10, 2008

Thursday, April 10, 2008
House Room C
General Assembly Building
9th & Broad Streets
Richmond, Virginia

Convene – 9:30 a.m.

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ADJOURN

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions arising as to the latest status of the agenda should be directed to Cindy M. Berndt at (804) 698-4378.

PUBLIC COMMENTS AT STATE WATER CONTROL BOARD MEETINGS: The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for their consideration.

For REGULATORY ACTIONS (adoption, amendment or repeal of regulations), public participation is governed by the Administrative Process Act and the Board's Public Participation

Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period and one public meeting) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period and one public hearing). Notice of these comment periods is announced in the Virginia Register and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For CASE DECISIONS (issuance and amendment of permits and consent special orders), the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. If a public hearing is held, there is a 45-day comment period and one public hearing. If a public hearing is held, a summary of the public comments received is provided to the Board for their consideration when making the final case decision. Public comment is accepted on consent special orders for 30 days.

In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

REGULATORY ACTIONS: Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who participated in the prior proceeding on the proposal (i.e., those who attended the public hearing or commented during the public comment period) are allowed up to 3 minutes to respond to the summary of the prior proceeding presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Persons are allowed up to 3 minutes to address the Board on the emergency regulation under consideration.

CASE DECISIONS: Comments on pending case decisions at Board meetings are accepted only when the staff initially presents the pending case decision to the Board for final action. At that time the Board will allow up to 5 minutes for the applicant/owner to make his complete presentation on the pending decision, unless the applicant/owner objects to specific conditions of this permit. In that case, the applicant/owner will be allowed up to 15 minutes to make his complete presentation. The Board will then, in accordance with § 2.2-4021, allow others who participated in the prior proceeding (i.e., those who attended the public hearing or commented during the public comment period) up to 3 minutes to exercise their right to respond to the summary of the prior proceeding presented to the Board. No public comment is allowed on case decisions when a FORMAL HEARING is being held.

POOLING MINUTES: Those persons who participated in the prior proceeding and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes or 15 minutes, whichever is less.

NEW INFORMATION will not be accepted at the meeting. The Board expects comments and information on a regulatory action or pending case decision to be submitted during the established public comment periods. However, the Board recognizes that in rare instances new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who

participated during the prior public comment period shall submit the new information to the Department of Environmental Quality (Department) staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. For a regulatory action should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, an additional public comment period may be announced by the Department in order for all interested persons to have an opportunity to participate.

PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than pending regulatory actions or pending case decisions. Anyone wishing to speak to the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentation to not exceed 3 minutes.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Cindy M. Berndt, Director, Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4378; fax (804) 698-4346; e-mail: cmberndt@deq.virginia.gov.

Corrections to (1) General VPDES Permit for Noncontact Cooling Water Discharges of 50,000 GPD or Less (9 VAC 25-196); and (2) General VPDES Permit for Discharges from Petroleum Contaminated Sites, Ground Water Remediation, and Hydrostatic Tests (9 VAC 25-120): The purpose of this agenda item is to request that the Board adopt corrections to the two general permit regulations as Final Exempt Actions. For the Cooling Water regulation, the errors were found in Section 9 VAC 25-196-70 (General Permit) in the Part I.A (Effluent Limitations and Monitoring Requirements) table footnotes. For the Petroleum Contaminated Sites regulation, the errors were found in Section 9 VAC 25-120-80 (General Permit) in the eight Part I.A (Effluent Limitations and Monitoring Requirements) tables, and in the Part II.K.1(ii) (Signatory Requirements) section.

General VPDES Permit Regulation for Concrete Product Facilities - Adoption of 9 VAC 25-193 to Reissue General Permit: The current general permit regulation for concrete products facilities will expire on September 30, 2008 and must be reissued for another five-year term. The staff intends to bring this permit regulation before the Board at their April 2008 meeting to request adoption. Changes to the general permit include routine updates (dates and analytical methods), updates to special conditions and storm water prevention related to solids deposition in the receiving stream, clarifications on freeboard requirements in the settling basins and their liner requirements and significant digits clarifications.

AST and Pipeline Facility Financial Responsibility Requirements, Amendment, 9 VAC 25-640 - Final Regulation: The Aboveground Storage Tank and Pipeline Facility Financial Responsibility Requirements Regulation requires operators of regulated petroleum aboveground storage tanks (ASTs) and pipeline facilities to demonstrate they have the financial resources available to pay for the costs of containment and cleanup in the event of a release from their tanks. Proposed amendments to the existing regulation include: 1) elimination of the standby trust requirement for third party mechanisms such as letters of credit and surety bonds 2); expansion of the section

related to fund access for AST operators, and 3); grammatical changes. Minor changes have been made since the proposed regulation.

Approval of portions of three Total Maximum Daily Load (TMDL) Reports containing five TMDLs, and authorization to update the appropriate Water Quality Management Plans (WQMP) and Amendment of Water Quality Management Planning Regulation to incorporate twenty-four TMDL waste load allocations (WLAs): Staff will ask the Board to approve three TMDL Reports and to adopt amendments to three sections of the Water Quality Management Planning (WQMP) regulation, 9 VAC 25-720.50.A (Potomac-Shenandoah River Basin), 9 VAC 25-720.90.A (Tennessee-Big Sandy River Basin), and 9 VAC 25-720-130A (New River Basin). The amendments consist of adding twenty-four new WLAs. All TMDL reports containing these WLAs have been approved by EPA. Nineteen of these WLAs are contained in a report- "Total Maximum Daily Loads for Polychlorinated Biphenyls (PCBs) Tidal Potomac & Anacostia River Watershed in the District of Columbia, Maryland and Virginia" that was approved by the Board on October 31, 2007. The 24 TMDLs are: Accotink Bay, Fairfax Co.; Aquia Creek, Stafford Co.; Belmont Bay/Occoquan Bay, Prince William Co.; Chopawamsic Creek, Prince William Co.; Coan River, Northumberland Co.; Dogue Creek, Fairfax Co.; Fourmile Run, Arlington; Gunston Cove, Fairfax Co.; Hoof Run & Hunting Creek, Fairfax Co.; Little Hunting Creek, Fairfax Co.; Monroe Creek, Fairfax Co.; Neabsco Creek, Fairfax Co.; Occoquan River, Prince William Co.; Pohick Creek/Pohick Bay, Fairfax Co.; Potomac Creek, Stafford Co.; Potomac River-Fairview Beach, King George Co.; Powells Creek, Prince William Co.; Quantico Creek, Prince William Co.; Upper Machodoc Creek, King George Co.; Garden Creek [2], Buchanan Co.; Knox Creek, Buchanan Co.; PawPaw Creek, Buchanan Co.; Laurel Fork, Sussex Co.

Report on Significant Noncompliance: One permittee was reported to EPA on the Quarterly Noncompliance Report (QNCR) as being in significant noncompliance (SNC) for the quarter ending September 30, 2007. The permittee, its facility and the reported instances of noncompliance are as follows:

Permittee/Facility: City of Fredericksburg, Fredericksburg Wastewater Treatment Plant

Type of Noncompliance: Failure to Meet Permit Effluent Limits (Total Suspended Solids, Total Kjeldahl Nitrogen, Total Phosphorus)

City/County: Fredericksburg, Virginia

Receiving Water: Rappahannock River

Impaired Water: The Rappahannock River is listed on the 305(b) report as impaired due to fecal coliform, e coli and chloride contamination as well as the presence of PCBs in fish tissue and the absence of sufficient levels of dissolved oxygen to support aquatic life. The sources of the e coli and PCB contamination are unknown. The presence of excess amounts of fecal coliform has been attributed, in part, to municipal point source discharges. With respect to the issue of dissolved oxygen, possible sources of impairment are airborne deposition, industrial point sources, municipal point sources, out of state sources, agricultural activities and stormwater runoff. The presence of excess amounts of chloride has been attributed to natural conditions.

River Basin: Rappahannock River Basin

Dates of Noncompliance: February through August 2007

Requirements Contained In: VPDES Permit

DEQ Region: Northern Virginia Regional Office

A Consent Special Order, containing a schedule of corrective action and a penalty which addresses the referenced violations was approved by the Board at its December, 2007 meeting.

SMG LLC for 605 Village Mobile Home Park, Louisa County - Consent Special Order w/ Civil Charges: Six-O-Five Village Mobile Home Park STP ("605") is a 0.04 MGD plant that is owned by SMG LCC with James Benson as managing partner and treats wastewater from the residents of a mobile home park that is located in Louisa County, Virginia. DEQ reissued 605's permit effective May 25, 2004. The facility has had trouble in the past meeting Permit effluent limits (Ammonia, CBOD, and TSS), which prompted DEQ to complete a site inspection that revealed further deficiencies in the operation and maintenance of the facility. On February 26, 2007, DEQ personnel conducted a site visit of the facility and found a number of major concerns, including filters being offline and a number of rags and trash found in the effluent discharge path and in the stream. The facility submitted a schedule to DEQ for the filter rehabilitation project that expected completion near the end of May 2007 although this was not an official deadline. The filter rehabilitation project is still ongoing due to additional necessary maintenance and the facility exceeded their permit limits for Ammonia on numerous occasions over the last year and for CBOD in August 2006. As a result of these issues, DEQ has issued Warning Letters on April 11, 2007 (W2007-04-N-1024), February 2007 (W2007-02-N-1019), January 2007 (W2007-01-N-1003), October 2006 (W2006-10-N-1024), August 2006 (W2006-08-N-1024), and April 2006 (W2006-04-N-1009); and a Notice of Violation on May 9, 2007, (W2007-05-N-0015). DEQ met with the facility owner, James Benson, and operator, Mike Cook, on June 19, 2007, in order to discuss the status of the filter rehabilitation project and the ammonia exceedances. Apparently, against manufacturer's recommendations, an aerator had been placed on the trash tank and disrupted the anaerobic digester process. Therefore, the filters needed to be replaced and the entire system required maintenance. At the time of the meeting, the first filter had been replaced and the facility had almost completed the second filter replacement. Then, the tanks would be cleaned and put back online. It was also determined that the bar trap has been clogging with debris recently causing other problems; however, the filter rehabilitation should take care of removing excess debris and prevent it from reaching the bar trap. Finally, the ammonia exceedances, some caused by weather and low temperatures, were discussed and it was suggested that the operator return to monitoring for ammonia, CBOD and TSS on a more frequent basis. The previous Consent Order with Mr. Zarin for 605 Village Mobile Home Park was also discussed and it was determined that all corrective action measures required under the prior Consent Order had been completed. DEQ is now issuing a Consent Order with SMG LLC in order to correct the most recent violations and prevent the possibility of future violations by the facility, as well as to ensure that the new owner of the 605 Mobile Home STP, SMG LLC, continues to take appropriate actions to comply with the State Water Control Law and Regulations. As a result of the violations stated above, DEQ has negotiated a Consent Order with SMG LLC, under new ownership, to increase monitoring frequency to twice per month for CBOD, TSS and Ammonia for a period of 6 months beginning December 1, 2007; update the O&M Manual and submit it to DEQ; and to check and clean the bar trap daily for any debris. The injunctive relief cost is minor at approximately \$800.00 to increase monitoring and update the O&M. Civil Charge: \$4,630

Atlantic Waste Disposal, Inc., Sussex County - Consent Special Order w/ Civil Charges: Atlantic Waste is a solid waste landfill in Sussex County. The facility is subject to the VPDES Permit No. VAR051428. On November 9, 2006 Atlantic Waste had a release of leachate into wetlands due to overfilling of a tanker truck. Subsequently, the Department conducted a review of Atlantic Waste's VPDES permit file and determined that Atlantic Waste exceeded the pH and TSS effluent limits in the permit based on the DMR dated July 24, 2006 and did not notify DEQ of these exceedances. In addition, Atlantic Waste did not submit five of the required annual DMRs. The Department issued a Notice of Violation (NOV) to Atlantic Waste on February 20,

2007 for these apparent violations. Atlantic Waste has already performed some monitoring of the wetland areas affected by the leachate spill. Results from the monitoring thus far are inconclusive therefore; Atlantic Waste is required to perform additional monitoring to ensure that no environmental damage has occurred due to the spill. The Consent Order requires that Atlantic Waste submit and implement an amended monitoring plan to confirm that no environmental damage resulted from the leachate spill. The Department required Atlantic Waste to amend the monitoring plan to include a new control area and ammonia sampling at a sufficient detection level to allow for comparison to Groundwater Protection Standards. If the monitoring results indicate that the leachate spill has impacted wetlands, Atlantic Waste will be required to submit and implement a corrective action plan (CAP). If corrective action will not sufficiently correct the wetland impacts, Atlantic Waste is required to mitigate for the impacted wetland areas. The Order also requires that Atlantic Waste submit a request for a VPDES Permit amendment to incorporate all of the Facility's outfalls. Atlantic Waste has agreed to modify the layout of the load out pad area to prevent overflows from reaching wetlands in the future. Atlantic Waste is required to submit a CAP to address the pH and TSS issues. The Consent Order also requires that Atlantic Waste submit an updated Storm Water Pollution Prevention Plan to reflect changes to the load out pad, any additional outfalls, and items required by the effluent limit corrective action plan. Atlantic Waste reported they spent \$20,000 on injunctive relief. Civil Charge: \$14,250

R.R. Beasley Inc., Lancaster Co. - Consent Special Order w/Civil Charges: R.R. Beasley Inc. (Beasley or Beasley Concrete) owns and operates a ready mix concrete facility in Kilmarnock, Virginia (facility). On June 20, 2006, Department staff inspected the facility and observed that Beasley Concrete did not have a VPDES permit authorizing discharges from the facility. The owner stated that he did not need a VPDES permit because the cement trucks hauled their wastewater to another Beasley Concrete facility that is permitted for discharge. Staff then observed a truck discharge wastewater with a pH of 10.0 into State waters. On June 28, 2007, The Department issued an NOV to Beasley Concrete citing them for discharging without a VPDES Permit. The Department met with representatives of Beasley Concrete on July 12, 2007, to discuss the NOV. The owner stated that he has now submitted everything required for coverage under the General VPDES permit for Ready-Mix Facilities. The Order requires Beasley to hire a licensed professional engineer for the construction of an impermeable settling basin to be used for treatment and control of process wastewater and commingled storm water. In addition Beasley must develop an operation and maintenance manual and Stormwater Pollution Prevention Plan for the facility. DEQ staff estimates the cost of injunctive relief to be \$100,000. Civil Charge: \$6,850

Capital Concrete, Inc., Norfolk - Consent Special Order with Civil Charge: Capital Concrete, Inc. ("Capital") owns and operates a concrete batch plant ("facility") and is in the business of manufacturing ready-mixed concrete for a variety of commercial and industrial applications. Storm water discharges from the facility are subject to the Permit through Registration No. VAG110036, which was reissued October 17, 2003 and expires September 30, 2008. The Permit authorizes Capital to discharge storm water associated with industrial activity, which does not combine with other process wastewaters, from permitted Outfall 001. On March 12, 2007, DEQ staff inspected the facility and observed an unauthorized discharge of process wastewater into Outfall 001 (process wastewater is normally treated on-site and reused in the process of making concrete). The unauthorized discharge was occurring because process wastewater flowing into a gravel pit was overflowing a collection barrel in the pit onto the ground and then flowing into Outfall 001; a subsequent review of DEQ files did not find a report from Capital of this

unauthorized discharge as required by the Permit (Part III.G.). A sump pump in the barrel was not operational and therefore could not pump the process wastewater for reuse. Capital staff indicated that the sump pump above-ground power cord had been disconnected to prevent vehicle traffic from damaging it. Capital is also required by the Permit to submit an annual Discharge Monitoring Report (“DMR”) for the facility by the tenth day of January of each year. According to DEQ files, the facility DMR for 2006 had not been received by January 10, 2007. Capital was advised of the above referenced Permit unauthorized discharge, failure to report the unauthorized discharge, and failure to submit the 2006 DMR in a Notice of Violation (“NOV”) issued on May 7, 2007. By letter dated April 27, 2007, Capital responded to the unauthorized discharge of process wastewater listed in the March 12, 2007 inspection to the effect that an underground power line had been installed to the sump pump, allowing it to be energized all the time without being affected by vehicle traffic. Capital also reported that the 2006 DMR had been submitted to DEQ however Capital resubmitted the 2006 DMR with the April 27, 2007 letter. By letter dated November 27, 2007, Capital noted it had implemented procedures to inform DEQ of any unauthorized discharges and provided photos of additional curbing installed to further contain the sump pump area. The installation of the curbing was confirmed during a site visit by DEQ staff on November 28, 2007. The order requires payment of a civil charge only. Capital has addressed the occurrence of the unauthorized discharge by installing a permanent power source and resubmitted the missing 2006 DMR. The order was executed on December 26, 2007. Civil Charge \$14,000

D. D. Jones Transfer and Warehouse Company, Incorporated (2 facilities), Chesapeake - Consent Special Order with a civil charge: D. D. Jones Transfer and Warehouse Company, Incorporated (“D. D. Jones”), distributes, warehouses and transports by truck high-volume commercial goods. It operates two facilities in Chesapeake, Virginia: a warehouse for the storage of commercial goods (“22nd Street facility”) and a nearby garage for performing maintenance on fleet trucks (“Wilson Road facility”). Storm water discharges from the facilities are subject to the Permit through Registration No. VAR050298 (22nd Street facility) and Registration No. VAR050299 (Wilson Road facility), which were effective July 1, 2004, and expire June 30, 2009. The Permit authorizes D. D. Jones to discharge to surface waters storm water associated with industrial activity under conditions outlined in the Permit. As part of the Permit, D. D. Jones is required to provide and comply with a Storm Water Pollution Prevention Plan (“SWP3”) for each facility. On July 20, 2007 DEQ compliance staff conducted inspections of the two facilities that revealed the following: overall poor housekeeping practices; failure to document quarterly routine site inspections; failure to conduct comprehensive site compliance evaluations, and required training; not documenting visual examinations of storm water quality; and failure to comply with SWP3 requirements, i.e. failure to develop a SWP3 for the 22nd Street facility and, for the Wilson Road facility, failure to provide the non-storm water certification and an updated SWP3 and site map, and failure to maintain inspection, training and monitoring reports with the SWP3. On September 24, 2007, DEQ issued a Notice of Violation (“NOV”) to D. D. Jones for each facility advising of the deficiencies revealed during the facility inspections conducted on July 20, 2007. An environmental consultant, on behalf of D. D. Jones, responded to the NOVs for both facilities, by letters, both dated October 8, 2007, to the effect that: a SWP3 had been prepared for the 22nd Street facility; the SWP3 and site map for the Wilson Road facility had been updated; both SWP3s include certifications of non-storm water discharges; training on the requirements of the SWP3, including the proper documentation of quarterly visual examinations of storm water quality, had been conducted; the housekeeping deficiencies had been remedied; and the comprehensive site compliance evaluation had been performed at both facilities. Copies of the SWP3s were included with the letters and reviewed and approved by DEQ. The Order

requires D. D. Jones to pay a civil charge within 30 days of the effective date of the Order. D. D. Jones has addressed all Permit and SWP3 deficiencies noted above. To ensure compliance with the Permit and the SWP3, the Order also requires D. D. Jones to submit documentation of routine inspections. The Order was executed on December 17, 2007. Civil Charge \$7,175

Plasser American Corporation, Chesapeake - Consent Special Order with a civil charge: Plasser American Corporation ("Plasser") manufactures and overhauls railroad maintenance machinery. Storm water discharges from the facility are subject to the Permit through Registration No. VAR050376, which was effective July 1, 2004, and expires June 30, 2009. The Permit authorizes Plasser to discharge to surface waters storm water associated with industrial activity under conditions outlined in the Permit. As part of the Permit, Plasser is required to provide and comply with a Storm Water Pollution Prevention Plan ("SWP3") for the Plasser facility. On September 12, 2007, DEQ compliance staff conducted an inspection of the facility that revealed the following: overall poor housekeeping practices; failure to conduct six quarterly visual examinations of storm water quality, a comprehensive site compliance evaluation for 2006, and required training; ; failure to comply with SWP3 requirements, i.e. failure to provide an updated SWP3 and site map that reflect current operations; failure to maintain storm water outfalls; and incomplete documentation of the 2005 comprehensive site compliance evaluation. On October 10, 2007, DEQ issued a Notice of Violation ("NOV") advising Plasser of the deficiencies revealed during the facility inspection conducted on September 12, 2007. On September 17, 2007 Plasser responded by electronic mail to the report of the September 12, 2007, DEQ compliance inspection to the effect that it had remedied many of the housekeeping deficiencies noted during the compliance inspection including cleaning out the yard basins in the wash down areas (Drainage Area No. 1 and Drainage Area No. 2). Plasser responded further on November 12, 2007, to announce that a new employee had been hired whose responsibility would be the SWP3 and training and inspections were to resume in December 2007 under the direction of the new employee. Plasser's response stated that quarterly visual examinations of storm water quality had been conducted and documented in October 2007, the contract for general maintenance of the facility had been expanded to include the storm water outfalls, and the responsibility for ensuring compliance with the General Permit and the SWP3 had been elevated to a company executive. The Order requires Plasser to pay a civil charge within 30 days of the effective date of the Order. Plasser has addressed all Permit deficiencies, except SWP3 deficiencies, noted above. To ensure compliance with the Permit and the SWP3, the Order also requires Plasser to submit an updated SWP3 and to submit documentation of routine inspections, a certification of employee training, and certification that all storm water outfalls have been cleared of vegetation, dirt and other debris. The Order was executed on December 18, 2007. Civil Charge \$8,610

Security Storage & Van Company of Norfolk, Virginia, Inc., Norfolk - Consent Special Order with a civil charge: Security Storage & Van Company of Norfolk, Virginia, Inc. ("Security Storage"), provides moving assistance and storage of household items. Storm water discharges from the facility are subject to the Permit through Registration No. VAR050357, which was effective July 1, 2004, and expires June 30, 2009. The Permit authorizes Security Storage to discharge to surface waters storm water associated with industrial activity under conditions outlined in the Permit. As part of the Permit, Security Storage is required to provide and comply with a Storm Water Pollution Prevention Plan ("SWP3") for the Security Storage facility. On July 11, 2007 DEQ compliance staff conducted an inspection of the facility that revealed the following: overall poor housekeeping practices; failure to conduct two quarterly routine site inspections, a comprehensive site compliance evaluation, and required training; failure to comply

with SWP3 requirements, i.e. failure to provide the non-storm water certification, and an updated SWP3 and site map; and incomplete documentation of visual examinations of storm water quality. On August 13, 2007, DEQ issued a Notice of Violation (“NOV”) advising Security Storage of the deficiencies revealed during the facility inspection conducted on July 11, 2007. Security Storage responded by letter dated September 6, 2007 to the effect that it had cleaned up all the trash and debris observed at the time of the inspection; that it had hired an employee whose sole responsibility is facility cleanliness; that it was now conducting employee training; and that management responsibilities for updating and implementing the SWP3 were now more clearly defined. Included with the letter were a revised site map and a certification of non-storm water discharges. The Order requires Security Storage to pay a civil charge within 30 days of the effective date of the Order. Security Storage has addressed all Permit deficiencies, except SWP3 deficiencies, noted above. To ensure compliance with the Permit and the SWP3, the Order also requires Security Storage submit an updated SWP3 and to submit documentation of routine inspections and a certification of employee training. The Order was executed on November 30, 2007. Civil Charge \$5,355

Sandy’s MHC, LLC, Frederick Co. - Consent Special Order with a civil charge: Sandy’s MHC, LLC owns and operates the STP, serving approximately 110 mobile homes in Frederick County, Virginia, which is the subject of the Permit. A July 5, 2005 Order required Sandy’s MHC, LLC to provide Facility upgrades to meet the Permit’s effluent limitations, including ammonia, by February 1, 2007. Sandy’s MHC, LLC upgraded the Facility; however, the upgraded Facility failed to perform as anticipated, and Sandy’s MHC, LLC violated TSS and CBOD effluent violations in February 2007. Previous to the upgrades, the Facility’s primary treatment deficiencies involved violations of ammonia limitations. DEQ issued Warning Letters on April 11, 2007, and May 7, 2007, to Sandy’s MHC, LLC for TSS effluent limitation violations occurring during February 2007 and March 2007, respectively. DEQ issued a Warning Letter on June 8, 2007, to Sandy’s MHC, LLC for TSS and CBOD effluent limitations violations occurring during April 2007. DEQ issued a NOV on August 6, 2007, to Sandy’s MHC, LLC for CBOD, TSS, and ammonia effluent limits violations occurring during June 2007. On August 23, 2007, DEQ met with Sandy’s MHC, LLC in an informal conference to discuss the August 6, 2007 NOV and resolution of the violations. The meeting included discussions of the Facility operations and the need for a plan and schedule of corrective actions to return to compliance with effluent limitations. During the meeting, Sandy’s MHC, LLC presented a generalized plan of corrective actions for another Facility upgrade. By submittal dated September 5, 2007, Sandy’s MHC, LLC, via its consultant, provided a written plan and schedule of corrective actions to ensure compliance with the Permit. Sections of this plan and schedule have been incorporated into Appendix A of this Order. The proposed Order, signed by Sandy’s MHC, LLC on January 28, 2008, requires Sandy’s MHC, LLC to upgrade the sewage treatment plant to meet limits. The Order also includes a civil charge. COST: \$45,000 Civil Charge \$5,500

Town of Drakes Branch, Charlotte Co. - Consent Special Order Issuance: The facility’s previous VPDES discharge Permit was re-issued on February 9, 2001; contained a four-year schedule of compliance for copper and a final effluent limit of 19 µg/l. Due to low hardness present in the receiving stream, along with low pH in the Town’s potable groundwater supply, the Town has been unable to consistently meet the current effluent limit of 17 µg/l in the Permit. The Town has been working diligently with their engineering consultants to chemically treat the potable water supply and reduce the leaching of copper from the distribution system. The Town proposes to perform a Site-Specific Water Effect Ratio (SSWER) for the receiving stream. Discussions are underway between the Town and Global Expertise in Outsourcing (GEO) in regards to the

feasibility of building a correctional facility adjacent to the Town, which would include financing for a new wastewater treatment plant to treat flows from the Town and the correctional facility. The proposed Order allows time for the SSWER to be conducted; with review and approval by the Department to follow. Plans and funding should be finalized for the proposed correctional facility within this timeframe as well.

Mr. Montgomery Maxted Pine Grove Park STP, Charlotte Co. - Consent Special Order – Issuance: The facility has a chronic history of noncompliance; including the previous owner, Mr. David S. Wilson, and the current owner, Mr. Montgomery Maxted. Mr. Wilson entered into a Consent Special Order with the Department on June 19, 2003, which assessed a \$19,950 civil charge for permit violations, and operational and monitoring/submission deficiencies. The Order cleared all accumulated points in CEDS, and required the owner to avoid the accumulation of 4 points during operation of the facility for a period of one year from the date of the Order. The facility incurred both ammonia and DO violations in October, 2003; in addition to a BOD₅ violation in December, 2003, resulting in the Department issuing Notice of Violation No. W2004-03-L-0011 on March 3, 2004, to address the noncompliance. Mr. Wilson sold the park, and transferred ownership to Mr. Maxted on or about June 18, 2004. The owner met with SCRO staff on June 25, 2007, to discuss current noncompliance and corrective action. Mr. Maxted described operational problems with the system when purchased, and corrective measures he has initiated to correct numerous deficiencies. Corrective action included slowing influent flow to 3-5 gpm (increases detention time and helps equalize loadings), bypassing the septic tanks from an apartment building (removed septic loadings impacting the treatment plant), and installed an additional air pump (increased DO in the effluent). He has installed a temporary sump pump for circulation of return flows to the head of the treatment plant to improve efficiency (current return line not properly sized, nor was it hooked up properly). Mr. Maxted has taken an active role in operating the treatment plant, adding lime for pH and alkalinity control, as well as enzymes for oil and grease control. Effluent quality is severely limited by the current Bio-Wheel (fixed film media) technology installed at the facility. Mr. Maxted has adopted a “hands-on” approach towards the day-to-day operation of the STP. He has spent a great deal of time and money attempting to comply with his discharge permit with insufficient and/or undersized equipment he inherited from the previous owner. He is currently pursuing plans to test the soil near the plant to determine if a septic tank/drain field (no surface discharge) system is feasible. If this option does not work, the Department has advised Mr. Maxted to retain a consultant to determine specific options he has to upgrade the STP and achieve compliance with the VPDES discharge permit.

LSH Development of Richmond, LLC, Dinwiddie Co. - Consent Special Order with Civil Charges: Virginia Water Protection General Permit number WP1-04-2659 was issued to LSH Development of Richmond, LLC on May 13, 2005. The permit authorized wetland and stream impacts associated with the development of the Lake Jordan subdivision. On October 1 and 3, 2007, DEQ staff inspected the project site. DEQ staff observed that the permittee had failed to maintain E&S controls, resulting in severe erosion in several areas throughout the site. Approximately 542 linear feet of stream and 0.81 acre of wetlands were filled with 1 to 2.5 feet of sediment. In addition, staff noted that 3 small areas permitted for conversion from forested to emergent wetlands were filled rather than restored and reseeded. Construction and demolition debris was also placed over 400 to 500 square feet of an emergent wetland. A Notice of Violation was issued on October 18, 2007 for the above-described violations. The proposed Consent Order requires restoration of the streams and wetlands affected by sedimentation, and monitoring to ensure these areas successfully recover. Some small areas that could not be restored without causing further damage to the ecosystem will be mitigated through the purchase

of wetland credits from a wetland mitigation bank and a donation to the Virginia Aquatic Resources Trust Fund. The estimated cost to comply with all injunctive relief required by the Consent Order is \$85,000. Civil Charge \$23,400

Barnette Energy, LLC, Dickenson Co. - Consent Special Order w/ Civil Charges: On June 26, 2007, DEQ SWRO staff members were made aware of unauthorized stream impacts that had occurred due to mining activities in an unnamed tributary to Mill Creek, in Dickenson County. This information was received from the Department of Mines, Minerals and Energy's ("DMME's") Division of Mined Land Reclamation ("DMLR"), located in Big Stone Gap, Virginia. These impacts were the result of mining operations by Barnette Energy, LLC at the Company's Mill Creek No. 1 Surface Mine. A total of 3,064 linear feet of an intermittent unnamed tributary to Mill Creek had been either permanently or temporarily impacted by the construction of Pond No. 3 (a temporary instream impoundment, construction of which began August 10, 2006), and later by construction of Pond No. 2 (another temporary instream impoundment) and Landform Fill No. 1 (placement of permanent fill within the stream channel). These impacts occurred at the Company's Mill Creek No. 1 Surface Mine. Surface water monitoring at the site, conducted since 1997 as a requirement of a DMLR permit, indicated that the unnamed tributary is a U.S. Army Corps of Engineers ("USACOE") jurisdictional area. Although application had been made to the USACOE for permit authorization to both impound and place permanent fill within jurisdictional waters of the U.S., no authorization had been given. In addition, these impacts were not authorized by a USACOE Nationwide Permit (e.g. Permit No. 21 which authorizes impacts of this nature). Without Federal Section 404 authorization, Virginia Section 401 water quality certification is not waived, and coverage under the Virginia Water Protection ("VWP") permit program is required. No VWP permit had been issued for the impacts described. DEQ staff met with Company officials and DMLR staff on August 2, 2007 to resolve these issues. NOV No. NOV-018-0807-WA was issued to the Company on August 23, 2007, citing the unauthorized impacts described above. Per Section D and Appendix B of the proposed consent special order, Barnette Energy, LLC must pay the civil charge and complete the SEP as described below. Appendix A of the order requires submittal and completion of a mitigation plan for the stream impacts that have occurred. The plan, which was approved by DEQ on January 17, 2008, requires construction of approximately 4,065 linear feet of mitigation stream channel, utilizing natural stream design principles and with establishment of a riparian zone. Removal of temporary in-stream control structures will be required after completion of mining activities and successful establishment of permanent vegetative cover (two growing seasons). Monitoring and reporting requirements are detailed in the mitigation plan. Also, an existing highwall (the face of exposed overburden and coal in an open cut of a surface coal mining activity), developed prior to implementation of the Surface Mining Control and Reclamation Act of 1977, will be reclaimed as part of the mitigation plan. Final completion of mitigation plan requirements should occur within 3 to 4 years. A rough estimate of the cost of compliance with the order is approximately \$150,000.00. Civil Charge \$19,880 - payment of \$1,988.00 to DEQ and a SEP for \$17,892.00. SEP monies will be provided to the Dickenson County Public Service Authority for construction of small, decentralized sewer systems in the Buffalo Creek area. The SEP would eliminate a number of straight pipe and cesspool discharges of untreated sewage to state waters, improving both water quality and public health by pollution reduction.

Heritage Land Investments, LLC, Page Co. - Heritage Land Investment, LLC ("HLI") owns the Valleyburg Road property (the Site), a 70-acre parcel of land which it is developing for 7 farmettes. On February 22, 2007, DEQ received a complaint regarding potential unauthorized

environmental impacts to State waters, and conducted an inspection of the Site, upon which DEQ staff observed potential unauthorized environmental impacts to State waters from two ponds (0.26 acres and 0.36 acres) having been constructed within State waters. The ponds appeared to have been constructed to interrupt the flow of an intermittent stream and springs in the area. On March 27, 2007, DEQ issued a Warning Letter for unauthorized environmental impacts to State waters. On April 6, 2007, DEQ staff met with Mr. Kevin Moyer, general manager of HLI, on-site to discuss resolving the issue. During this on-site meeting, DEQ informed Mr. Moyer that the Site should be evaluated to determine the full extent of the environmental impacts. DEQ issued a NOV on May 21, 2007, for conducting in-stream construction of two ponds on an intermittent stream section without a permit in violation of VA Code 62.1-44.15:5 and 9 VAC 25-210-50 which prohibit such actions without a permit. On June 15, 2007, DEQ met with Mr. Moyer in an informal conference to discuss the violations cited in the NOV. Mr. Moyer attributed the violations to misunderstandings, by both HLI's consultants and county officials, regarding whether a stream existed on the Site, which would require permits to construct. Mr. Moyer asserted that he was led to believe after consulting with county permitting officials and HLI's consultants that no further permits were needed for the construction of the ponds at the Site. On October 4, 2007, DEQ received a report titled "Site Evaluation Report". Based on the information therein, and on site visits conducted by DEQ staff, DEQ concluded that the apparent environmental impacts to State waters were minor. While the Site project would have required a General Permit through DEQ, this General Permit would have required reporting only, with no compensation or mitigation for the environmental impacts. Based on the nature of the work conducted at the site, the Army Corps of Engineers (ACOE) issued an after-the-fact permit for the Valleyburg Road property project. The proposed Order, signed by Heritage Land Investments, LLC on February 7, 2008, requires the company to pay a civil charge to resolve the violations. COST: NA Civil Charge: \$2,600

Danville Investors, LLC, Pittsylvania Co. - Consent Special Order w/ Civil Charge: The developer proposed construction of multi-family housing units on the site, which was delineated by the ACOE to have 273 linear feet of stream impacts. The developer's agent was late in submitting the Joint Permit Application to the Department, which was received after the project was substantially complete. The developer installed and maintained proper E & S controls on the site, and the stated impacts were not exceeded. Since the Department does not issue after-the-fact Permits, the proposed Order addresses proceeding with a construction project with stream impacts without the coverage of a VWP Permit. The proposed Order requires the developer to pay a civil charge to address noncompliance with the VWP regulations. Deterrence of future violations enhances the regulatory goals of the VWP Program. Civil Charge: \$1,820

Hahn Transportation, Inc., Warren Co. - Consent Special Order w/ Civil Charges: Hahn Transportation, Inc., owns an underground storage tank (UST) facility located at 75 Country Club Road, Front Royal, Virginia. The owner stores petroleum in these USTs under the requirements of 9 VAC 25-580-10 et seq. Underground Storage Tanks: Technical Standards and Corrective Action Requirements (UST Regulation). The UST Regulation requires that owners of UST facilities protect USTs from corrosion, perform release detection on the USTs, properly register the USTs, properly close non-compliant USTs, and maintain compliance records for DEQ review. A April 12, 2006, inspection of the facility revealed a number of alleged violations. The alleged violation noted relevant to this Consent Special Order is failure to equip UST number 1 with overfill prevention equipment. DEQ issued a Notice of Violation (NOV) to the owner on July 27, 2007. The owner responded by contacting the DEQ via telephone on numerous occasions to discuss resolution of the violation and by hiring a contractor to install

overflow prevention equipment on UST number 1. Installation of the equipment was completed on November 20, 2007, resolving the alleged violation. The owner signed a Consent Special Order on December 18, 2007. The owner had not installed overflow protection equipment on its UST. The Order required that this be performed by December 31, 2007. The owner has resolved the alleged violation. The cost to resolve the alleged violation was \$2,534.00. Civil Charge \$2,455

Mowery Oil Company, Inc., Shenandoah Co. - Consent Special Order w/ Civil Charges: Mowery Oil Company, Inc., owns an underground storage tank (UST) facility located at 354 Front Royal Road, Strasburg, Virginia. The owner stores petroleum in these USTs under the requirements of 9 VAC 25-580-10 et seq. Underground Storage Tanks: Technical Standards and Corrective Action Requirements (UST Regulation). The UST Regulation requires that owners of UST facilities protect USTs from corrosion, perform release detection on the USTs, properly register the USTs, properly close non-compliant USTs, and maintain compliance records for DEQ review. An August 29, 2007, inspection of the facility revealed a number of alleged violations. Alleged violations noted relevant to this Consent Special Order are failure to: 1) protect metal portions of the product piping for UST numbers 1, 2, 3, 4 and 5M from corrosion; 2) perform release detection on UST numbers 5M and 6M; and 3) equip portions of the pressurized piping associated with UST numbers 1, 2, 3, 4 and 5M with an automatic line leak detector. DEQ issued a Notice of Violation (NOV) to the owner on September 21, 2007. The owner responded by meeting with the DEQ on September 27, October 2 and 18, 2007, and by submitting current release detection records for UST numbers 5M and 6M. The owner decided to close the non-compliant USTs (numbers 1, 2, 3, 4, 5M & 6M) and has continued to submit release detection records for all USTs to the DEQ on a monthly basis. The owner agreed to a corrective action plan to resolve the remaining violations and signed a Consent Special Order on January 31, 2008. DEQ staff has received a copy of a signed contract for the removal of the non-compliant USTs in keeping with the corrective action plan and its May 1, 2008 compliance date. All alleged violations noted in the NOV are scheduled to be resolved in accordance with the conditions of Appendix A in the Order. Estimated cost to comply with UST regulations is \$54,400. Civil Charge \$10,858

Quarles Petroleum, Inc., Harrisonburg - Consent Special Order w/ Civil Charges: Quarles Petroleum, Inc., owns an underground storage tank (UST) facility located at 3410 South Main Street, Harrisonburg, Virginia. The owner stores petroleum in these USTs under the requirements of 9 VAC 25-580-10 et seq. Underground Storage Tanks: Technical Standards and Corrective Action Requirements (UST Regulation). The UST Regulation requires that owners of UST facilities protect USTs from corrosion, perform release detection on the USTs, properly register the USTs, properly close non-compliant USTs, and maintain compliance records for DEQ review. A February 27, 2007, inspection of the facility revealed a number of alleged violations. Alleged violations noted relevant to this Consent Special Order are failure to: 1) protect metal portions of the product piping for UST numbers 1, 2, 3M and 4M from corrosion; and 2) maintain release detection records for UST numbers 3M and 4M. DEQ issued a Notice of Violation (NOV) to the owner on August 28, 2007. The owner responded by submitting a written response to the DEQ on October 17 and again, via counsel, on November 13, 2008. The owner resolved the first alleged violation on May 14, 2007, and was unable to produce the records necessary to resolve the second. It signed a Consent Special Order on February 5, 2008. The owner had not maintained release detection records and was thus unable to comply with that requirement. It did agree to prepare a company-wide plan to ensure release detection records are kept. Estimated cost to comply with UST regulations is \$1,000. Civil Charge \$1,400 and a SEP

that offsets \$1,050 of the civil charge. The SEP is for the owner to install upgraded release detection equipment in nine other UST facilities

Jean H. Shepherd, Inc., Clarke Co. - Consent Special Order w/ Civil Charges: Jean H. Shepherd owns an underground storage tank (UST) facility located at 4192 Harry Byrd Highway, Berryville, Virginia. The owner stores petroleum in these USTs under the requirements of 9 VAC 25-580-10 et seq. Underground Storage Tanks: Technical Standards and Corrective Action Requirements (UST Regulation). The UST Regulation requires that owners of UST facilities protect USTs from corrosion, perform release detection on the USTs, properly register the USTs, properly close non-compliant USTs, and maintain compliance records for DEQ review. A December 19, 2006, inspection of the facility revealed a number of alleged violations. Alleged violations noted relevant to this Consent Special Order are failure to: 1) maintain compliance documentation; 2) perform testing of the corrosion protection systems installed on UST numbers 1, 2 and 3; 3) perform release detection on UST numbers 1, 2 and 3; and 4) maintain documentation of financial responsibility for the facility. DEQ issued a Notice of Violation (NOV) to the owner on July 25, 2007. The owner responded by contacting the DEQ via telephone on numerous occasions and meeting with DEQ staff on August 29, 2007, to discuss resolution of the violations. She also submitted: 1) passing test results for the corrosion protection system performed on March 8, 2007; 2) passing release detection records for the USTs dated September 22, 2007, confirming repair of the release detection equipment; and 3) acceptable financial responsibility documentation on September 21, 2007. Submittal of these documents returned the facility to compliance with the UST Regulation. In order to resolve the past violations, the owner signed a Consent Special Order on October 24, 2007. In order to confirm continuing compliance with the requirements for release detection, the owner has submitted passing release detection records for the months of September, October and November, 2007, in accordance with Appendix A of the Order. All other alleged violations were resolved prior to the signing the Order. The cost to resolve the alleged violations was approximately \$2,000.00. Civil Charge \$5,299